

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

CONNIE BURR)	
Claimant)	
VS.)	
)	
HOLIDAY INN WEST)	Docket No. 177,587
Respondent)	
AND)	
)	
CIGNA WORKERS COMPENSATION)	
Insurance Carrier)	
AND)	
)	
KANSAS WORKERS COMPENSATION FUND)	

ORDER

ON the ____ day of November, 1993, the application of the respondent for review by the Workers Compensation Appeals Board of an Order entered by Administrative Law Judge Floyd V. Palmer on October 21, 1993, came on before the Board for oral argument by telephone conference.

APPEARANCES

Claimant appeared by her attorney, Lelyn J. Braun, Topeka, Kansas; respondent and insurance carrier appeared by their attorney, Michael W. Downing, Kansas City, Missouri; the Kansas Workers Compensation Fund appeared by its attorney, Jeff K. Cooper, Topeka, Kansas. There were no other appearances.

ISSUES

(1) Whether claimant met with a compensable injury arising out of and in the course of her employment on April 1, 1993.

RECORD

(1) The documents filed of record with the Division in this docketed matter, including the transcript of preliminary hearing heard before Administrative Law Judge Floyd V. Palmer dated October 20, 1993, and the attached exhibits.

(2) The transcript of the discovery deposition of Connie Burr taken on behalf of the respondent insurance carrier on October 1, 1993.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for purposes of preliminary hearing, the Board finds:

(1) Claimant met with accidental injury on April 1, 1993 when she was walking down a stairway while carrying a vacuum sweeper and her right knee locked causing her to fall to the concrete landing two or three steps below. As a result of this accident, claimant experienced injury to her right knee.

(2) Whether an accident arises out of and in the course of worker's employment it depends upon the facts peculiar to the particular case. Messenger v. Sage Drilling Company, 9 Kan. App. 2d 435, 440, 680 P.2d 556 (1984).

(3) The Board finds that the accident of claimant arose out of and in the course of her employment with the respondent as it is apparent that a causal connection exists between the work that was required to be performed and the resulting injury. The Board finds that it is more probably true than not that claimant's act of carrying the vacuum down the stairway is the cause of claimant's accident. Therefore, the Board finds that the incident in question is directly related to claimant's work duties and is compensable.

WHEREFORE, it is the finding, decision and order of this Board that the claimant is entitled to temporary total disability benefits, commencing April 1, 1993, in the sum of \$113.33 per week, until she is released to return to substantial and gainful employment by her authorized, treating physician, or until further order of the court. Claimant is also entitled to medical care and treatment to be provided by Dr. Blitz of Hutchinson, Kansas.

IT IS SO ORDERED.

Dated and mailed this ____ day of November, 1993.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

cc: Lelyn J. Braun, 1324 Topeka Blvd., Topeka, Kansas 66612
Michael W. Downing, 120 W. 12th, Suite 310, Kansas City, Missouri 64105
Floyd V. Palmer, Administrative Law Judge
Jeff K. Cooper, 1105 Bank IV Tower, Topeka, Kansas 66603